IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

CRAIG ALEXANDER, ET AL. **PLAINTIFFS**

V. **CIVIL ACTION NO. 3:14cv208-HTW-LRA**

MISSISSIPPI DEPARTMENT OF CORRECTIONS, ET AL. **DEFENDANTS**

ANSWER AND DEFENSES

Defendants Mississippi Department of Corrections ("MDOC"), Christopher B. Epps (in his Official Capacity as Commissioner of Corrections), Mississippi Parole Board ("MPB"), and Steve Pickett (in his Official Capacity as Chair of the Mississippi Parole Board) (collectively "defendants") file this Answer and Defenses to plaintiffs' complaint [Docket No. 1] and state:

ANSWER

Defendants respond to the allegations in plaintiffs' complaint, paragraph-by-paragraph, as follows:

Jurisdiction and Venue

1. Denied as stated. Defendants deny that this Court has subject matter jurisdiction over this lawsuit, and admit only that plaintiffs' complaint seeks declaratory and injunctive relief. Any other remaining allegations contained in paragraph 1 not expressly admitted are denied.

2. Denied as stated. Defendants admit only that venue is proper in this District and Division of the Court. Any other remaining allegations contained in

paragraph 2 not expressly admitted are denied.

Parties

3. Denied as stated. Defendants admit only that plaintiff Craig Alexander is an adult U.S. citizen currently in MDOC custody, assigned MDOC Inmate No. 167927, has been in MDOC custody since approximately June 2011 as a result of a conviction in DeSoto County, Mississippi and twenty-five year sentence for a count of burglary and as a habitual offender. Alexander currently has no assigned parole eligibility date and has not been considered for parole by MPB. Defendants further admit only that the document affixed to plaintiffs' complaint as Exhibit "1" speaks for itself. Any other remaining allegations contained in paragraph 3 not expressly admitted are denied.

4. Denied as stated. Defendants admit only that plaintiff Robert Anderson is an adult U.S. citizen currently in MDOC custody, assigned MDOC Inmate No. 153440, has been in MDOC custody since approximately January 2011 as a result of a conviction in Hinds County, Mississippi and five years and six months sentence for three counts of burglary, and, prior to filing of this lawsuit was assigned a parole eligibility date and previously considered by MPB for parole. Defendants further admit only that the document affixed to plaintiffs' complaint as Exhibit "2" speaks for itself. Any other remaining allegations contained in paragraph 4 not expressly admitted are denied.

5. Denied as stated. Defendants admit only that plaintiff Orves Baker is an adult U.S. Citizen currently in MDOC custody, assigned MDOC Inmate No.

L5546, has been in MDOC custody since approximately September 2009 as a result of a conviction in Jefferson Davis County, Mississippi and four year sentence for three counts of burglary, and, prior to filing of this lawsuit was assigned a parole eligibility date and considered by MPB for parole and granted parole in approximately May 2014, and is currently on parole. Defendants further admit only that the document affixed to plaintiffs' complaint as Exhibit "3" speaks for itself. Any other remaining allegations contained in paragraph 5 not expressly admitted are denied.

6. Denied as stated. Defendants admit only that plaintiff Adrian Bell is an adult U.S. citizen currently in MDOC custody, assigned MDOC Inmate No. N5031, has been in MDOC custody since approximately July 2012 as a result of a conviction in Lee County, Mississippi and five year sentence for one count of burglary, and, prior to filing of this lawsuit was assigned a parole eligibility date. Defendants further admit only that the document affixed to plaintiffs' complaint as Exhibit "4" speaks for itself. Any other remaining allegations contained in paragraph 6 not expressly admitted are denied.

7. Denied as stated. Defendants admit only that plaintiff Randle Scott Blythe was an adult U.S. citizen in MDOC custody, assigned MDOC Inmate No. 173486, and entered MDOC custody since approximately December 2011 as a result of a conviction in DeSoto County, Mississippi and twenty-five year sentence for a count of burglary and as a habitual offender. Plaintiff Randle Scott Blythe passed away after the complaint was filed in this lawsuit. Defendants further admit only

that the document affixed to plaintiffs' complaint as Exhibit "5" speaks for itself. Any other remaining allegations contained in paragraph 7 not expressly admitted are denied.

8. Denied as stated. Defendants admit only that plaintiff Michael Bokamper is an adult U.S. citizen currently in MDOC custody, assigned MDOC Inmate No. 103381, has been in MDOC custody since approximately June 2012 as a result of a conviction in DeSoto County, Mississippi and three year sentence for a count of burglary and as a habitual offender, and, currently has no assigned parole eligibility date and has not been considered for parole by MPB. Defendants further admit only that the document affixed to plaintiffs' complaint as Exhibit "6" speaks for itself. Any other remaining allegations contained in paragraph 8 not expressly admitted are denied.

9. Denied as stated. Defendants admit only that plaintiff Calvin Charles Bolar is an adult U.S. citizen currently in MDOC custody, assigned MDOC Inmate No. 47337, has been in MDOC custody since approximately December 2009 as a result of a conviction in Lamar County, Mississippi and ten year sentence for a count of burglary, and, prior to filing of this lawsuit was assigned a parole eligibility date and considered by MPB for parole and granted parole in approximately June 2014, and is currently on parole. Defendants further admit only that the document affixed to plaintiffs' complaint as Exhibit "7" speaks for itself. Any other remaining allegations contained in paragraph 9 not expressly admitted are denied.

10. Denied as stated. Defendants admit only that plaintiff Leon Brandon,

Jr. is an adult U.S. citizen currently in MDOC custody, assigned MDOC Inmate No. K2713, has been in MDOC custody since approximately February 2011 as a result of a conviction in Chickasaw County, Mississippi and ten year sentence for a count of burglary, and, prior to the filing of this lawsuit was assigned a parole eligibility date and considered by MPB for parole and granted parole in approximately August 2014, and is currently on parole. Defendants further admit only that the document affixed to plaintiffs' complaint as Exhibit "8" speaks for itself. Any other remaining allegations contained in paragraph 10 not expressly admitted are denied.

11. Denied as stated. Defendants admit only that plaintiff Jeremy Brewer is an adult U.S. citizen currently in MDOC custody, assigned MDOC Inmate No. 147931, has been in MDOC custody since approximately March 2013 as a result of a conviction in Noxubee County, Mississippi and seventeen year sentence for three counts of burglary, and, prior to the filing of this lawsuit was assigned a parole eligibility date. Defendants further admit only that the document affixed to plaintiffs' complaint as Exhibit "9" speaks for itself. Any other remaining allegations contained in paragraph 11 not expressly admitted are denied.

12. Denied as stated. Defendants admit only that plaintiff Lee Alexander Brooks is an adult U.S. citizen who was in MDOC custody, assigned MDOC Inmate No. 37279, had been in MDOC custody since approximately July 2008 as a result of a conviction in Adams County, Mississippi and twenty year sentence for two counts of burglary, and, prior to the filing of this lawsuit was assigned a parole eligibility date and considered by MPB for parole and granted parole to Louisiana detainer in

approximately July 2014, and is currently on parole. Defendants further admit only that the document affixed to plaintiffs' complaint as Exhibit "10" speaks for itself. Any other remaining allegations contained in paragraph 12 not expressly admitted are denied.

13. Denied as stated. Defendants admit only that plaintiff Johnny Lee Brown is an adult U.S. citizen who was in MDOC custody, assigned MDOC Inmate No. L3424, and had been in MDOC custody since approximately October 2002 as a result of a conviction in Scott County, Mississippi and twenty-two year sentence for a count of burglary, and, prior to the filing of this lawsuit was assigned a parole eligibility date and considered by MPB for parole in April 2014. Plaintiff Johnny Lee Brown's sentence has expired and he has been released. Defendants further admit only that the document affixed to plaintiffs' complaint as Exhibit "11" speaks for itself. Any other remaining allegations contained in paragraph 13 not expressly admitted are denied.

14. Denied as stated. Defendants admit only that plaintiff Sacory Brown is an adult U.S. citizen currently in MDOC custody, assigned MDOC Inmate No. 176189, has been in MDOC custody since approximately June 2012 as a result of a conviction in Forrest County, Mississippi and eighteen year sentence for a count of burglary, and, prior to the filing of this lawsuit was assigned a parole eligibility date. Defendants further admit only that the document affixed to plaintiffs' complaint as Exhibit "12" speaks for itself. Any other remaining allegations contained in paragraph 14 not expressly admitted are denied.

15. Denied as stated. Defendants admit only that plaintiff Shawn Bruce is an adult U.S. citizen formerly in MDOC custody and assigned MDOC Inmate No. 89888 as a result of a conviction in Wilkinson County, Mississippi and five year sentence for a count of burglary, and, prior to filing of this lawsuit was assigned a parole eligibility date, considered by MPB for parole and granted parole in approximately March 2014, and is currently on parole. Defendants further admit only that the document affixed to plaintiffs' complaint as Exhibit "13" speaks for itself. Any other remaining allegations contained in paragraph 15 not expressly admitted are denied.

16. Denied as stated. Defendants admit only that plaintiff Varico Bush is an adult U.S. citizen currently in MDOC custody, assigned MDOC Inmate No. 146118, has been in MDOC custody since approximately January 2009 as a result of a conviction in Oktibbeha County, Mississippi and twenty year sentence for a count of burglary, and, currently has no assigned parole eligibility date and has not been considered for parole by MPB. Defendants further admit only that the document affixed to plaintiffs' complaint as Exhibit "14" speaks for itself. Any other remaining allegations contained in paragraph 16 not expressly admitted are denied.

17. Denied as stated. Defendants admit only that plaintiff Derreco Bynam is an adult U.S. citizen currently in MDOC custody, assigned MDOC Inmate No. 124520, has been in MDOC custody since approximately July 2011 as a result of a conviction in Clay County, Mississippi and five year sentence for a count of burglary, and currently has no assigned parole eligibility date and has not been

considered for parole by MPB. Defendants further admit only that the document affixed to plaintiffs' complaint as Exhibit "15" speaks for itself. Any other remaining allegations contained in paragraph 17 not expressly admitted are denied.

18. Denied as stated. Defendants admit only that plaintiff Ronald Coleman is an adult U.S. citizen currently in MDOC custody, assigned MDOC Inmate No. 38825, has been in MDOC custody since approximately November 2004 as a result of a conviction in Oktibbeha County, Mississippi and twenty-five year sentence for a count of burglary and as a habitual offender, and, currently has no assigned parole eligibility date and has not been considered for parole by MPB. Defendants further admit only that the document affixed to plaintiffs' complaint as Exhibit "16" speaks for itself. Any other remaining allegations contained in paragraph 18 not expressly admitted are denied.

19. Denied as stated. Defendants admit only that plaintiff James Corley is an adult U.S. citizen currently in MDOC custody, assigned MDOC Inmate No. 177282, has been in MDOC custody since approximately July 2012 as a result of a conviction in Forrest County, Mississippi and twelve year sentence for a count of burglary, and, currently has no assigned parole eligibility date and has not been considered for parole by MPB. Defendants further admit only that the document affixed to plaintiffs' complaint as Exhibit "17" speaks for itself. Any other remaining allegations contained in paragraph 19 not expressly admitted are denied.

20. Denied as stated. Defendants admit only that MDOC's statutory duties and responsibilities are defined by Mississippi statutes which speak for

themselves, and MDOC may be served with process in accordance with Fed. R. Civ. P. 4. Any other remaining allegations contained in paragraph 20 not expressly admitted are denied.

21. Denied as stated. Defendants admit only that Christopher B. Epps is named as a defendant solely in his official capacity as Commissioner of MDOC, the Commissioner's duties and responsibilities are defined by Mississippi statutes which speak for themselves, and the Commissioner may be served with process in accordance with Fed. R. Civ. P. 4. Any other remaining allegations contained in paragraph 21 not expressly admitted are denied.

22. Denied as stated. Defendants admit only that MPB's statutory duties and responsibilities are defined by Mississippi statutes which speak for themselves, and MPB may be served with process in accordance with Fed. R. Civ. P. 4. Any other remaining allegations contained in paragraph 22 not expressly admitted are denied.

23. Denied as stated. Defendants admit only that Steve Pickett is named as a defendant solely in his official capacity as Chairman of the MPB, the Chairman's duties and responsibilities are defined by Mississippi statutes which speak for themselves, and the Chairman may be served with process in accordance with Fed. R. Civ. P. 4. Any other remaining allegations contained in paragraph 23 not expressly admitted are denied.

Class Definition

24. Denied.

25. Denied.

26. Denied.

27. Denied.

28. Denied.

Statutory Background and Defendants' Conduct

29. Denied as stated. Defendants admit only that the Mississippi laws and statutes cited in paragraph 29 speak for themselves. Any other remaining allegations and legal conclusions contained in paragraph 29 not expressly admitted are denied.

30. Denied as stated. Defendants admit only that the Mississippi laws and statutes cited and/or alluded to in paragraph 30 speak for themselves. Any other remaining allegations and legal conclusions contained in paragraph 30 not expressly admitted are denied.

31. Denied as stated. Defendants admit only that the Mississippi laws and statutes cited and/or alluded to in paragraph 31 speak for themselves. Any other remaining allegations and legal conclusions contained in paragraph 31 not expressly admitted are denied.

32. Denied as stated. Defendants admit only that the Mississippi laws and statutes cited and/or alluded to in paragraph 32 speak for themselves. Any other remaining allegations and legal conclusions contained in paragraph 32 not expressly admitted are denied.

33. Denied as stated. Defendants admit only that the Mississippi laws

and statutes cited in paragraph 33 speak for themselves. Any other remaining allegations and legal conclusions contained in paragraph 33 not expressly admitted are denied.

34. Denied.

35. Denied.

36. Denied as stated. Defendants admit only that the Mississippi laws and statutes cited in paragraph 36 speak for themselves. Any other remaining allegations and legal conclusions contained in paragraph 36 not expressly admitted are denied.

37. Denied as stated. Defendants admit only that the Mississippi laws and statutes cited and/or alluded to in paragraph 37 speak for themselves. Any other remaining allegations and legal conclusions contained in paragraph 37 not expressly admitted are denied.

38. Denied as stated. Defendants admit only that the constitutional provisions, Mississippi laws, and statutes cited and/or alluded to in paragraph 38 speak for themselves. Any other remaining allegations and legal conclusions contained in paragraph 38 not expressly admitted are denied.

39. Denied.

40. Denied.

41. Denied.

42. Denied.

43. Denied.

44. Denied.

45. Denied.

Relief Requested

Defendants deny the allegations contained in the paragraph beginning with "Wherefore, on their own behalf . . ." on pages 22-23 of the complaint, including all subparts 1-4, and specifically deny that plaintiffs are entitled to any relief whatsoever.

Finally, any allegations contained in plaintiffs' complaint that have not been expressly admitted above are denied.

FIRST DEFENSE

Plaintiffs' compliant should be dismissed for lack of subject matter jurisdiction.

SECOND DEFENSE

Plaintiffs' complaint fails to state a claim upon which relief may be granted.

THIRD DEFENSE

Defendants affirmatively assert immunity as to some or all of plaintiffs' claims pursuant to the Eleventh Amendment to the United States Constitution.

FOURTH DEFENSE

Defendants affirmatively assert all common law and/or statutory immunities to which they may be entitled, including qualified immunity, as well as any defenses which are or may become available to defendants pursuant to the Mississippi Tort Claims Act.

FIFTH DEFENSE

Some or all of plaintiffs' claims are barred for failure to properly exhaust their administrative remedies.

SIXTH DEFENSE

Defendants affirmatively assert all defenses to which they are, or may become entitled to through discovery in this action, under 20 U.S.C. §§ 1400 *et seq.*, 28 U.S.C. § 2254, 42 U.S.C. § 1983, 42 U.S.C. §§ 12131 *et seq.*, the Prison Litigation Reform Act, and/or any other provisions of federal or state law.

SEVENTH DEFENSE

Some or all of plaintiffs' claims are barred by judicial abstention doctrines, including, but not limited, to the *Younger*, *Colorado River*, *Burford*, and/or *Pullman* abstention doctrines.

EIGHTH DEFENSE

Some or all of plaintiffs' claims are barred by their lack of standing, the doctrine of mootness, because they are not ripe for judicial review, and/or are insufficient so as to warrant an award of injunctive or declaratory relief.

NINTH DEFENSE

Plaintiffs' claims fail to meet the requirements for class status under Fed. R. Civ. P. 23.

TENTH DEFENSE

To the extent plaintiffs seek equitable relief, such claims are barred by plaintiffs' adequate remedy at law.

ELEVENTH DEFENSE

Some or all of plaintiffs' claims are barred by the doctrines of laches, waiver and/or estoppel.

TWELFTH DEFENSE

Some or all of plaintiffs' claims are barred by the applicable statute of limitations.

THIRTEENTH DEFENSE

Defendants affirmatively assert all defenses which are or may become available to them through further discovery under Fed. R. Civ. P. 8(c) and/or 12(b).

FOR THESE REASONS, Mississippi Department of Corrections, Christopher B. Epps (in his Official Capacity as Commissioner of Corrections), Mississippi Parole Board, and Steve Pickett (in his Official Capacity as Chair of the Mississippi Parole Board) respectfully request that their Answer and Defenses be received and request the Court to dismiss plaintiffs' complaint with prejudice, and at plaintiffs' sole cost, and award defendants any attorneys' fees and other expenses to which they may be entitled pursuant to 42 U.S.C. § 1988 or any other applicable statute or basis.

THIS the 2nd day of September, 2014.

Respectfully submitted,

MISSISSIPPI DEPARTMENT OF CORRECTIONS, CHRISTOPHER B. EPPS, in his official capacity as Commissioner of Corrections, MISSISSIPPI PAROLE BOARD, and STEVE PICKETT, in his official capacity as Chair of the Mississippi Parole Board

BY: JIM HOOD, ATTORNEY GENERAL

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been filed with the Clerk of Court using the Court's ECF system and thereby served on all counsel of record who have appeared in this action to date.

THIS the 2nd day of September, 2014.

S/Justin L. Matheny
Justin L. Matheny